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SUMMARY RECORD OF THE 1162nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 22 July 1992, at 10 a.m.

Chairman: Mr. POCAR

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The meeting was called to order at 10.20 a.m.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 3)

General comment relating to article 18 of the Covenant (CCPR/C/45/CRP.2)

1. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under article 40) recalled that an initial draft had been submitted to the Working Group of the forty-fourth session; owing to lack of time, the Group had only been able to take a look at it and make a few comments, which had been taken into consideration in drafting the revised text. It was the reviewed and revised draft that the new Working Group was submitting for the Committee's attention.

2. The final three paragraphs of the draft (11, 12 and 13) appeared within square brackets because the Working Group, while recommending their adoption by the Committee since it felt they were necessary, did not wish to impose its views on the Committee. Those paragraphs reflected three realities whose importance had been demonstrated during consideration of various State party reports: the establishment of a State religion, the question of official ideology, and conscientious objection to military service.

3. The Working Group had worked in English and it requested the members of the Committee who used another language to draw attention to any points of translation that might arise. In that regard, one member had already commented on the term "holidays" (para. 4).

4. It would be as well if, before analysing the draft text paragraph by paragraph, the members had a general discussion on the text as a whole, voiced their comments on the overall structure of the text and indicated any material they might wish to see added or, conversely, deleted.

5. Mr. SADI said that he was particularly satisfied with a text which reflected thorough consideration and certainly covered the major points of a far-reaching problem. He simply wondered whether the idea of tolerance, which was approached in the draft from a negative angle, should have its positive side expressed - in other words, whether the need to promote tolerance among individuals should perhaps be stressed.

6. Mr. EL SHAFEI said the draft text showed that a great deal of thought had been given to issues as extensive as they were topical. Everyone knew that the question of freedom of religion was at the root of many conflicts and that its repression led to serious consequences throughout the world. The question was therefore highly delicate, and the Committee, if it was to draft a general comment in such a way as to promote the observance of article 18, must also seek to enable that article to be accepted by as many States as possible. On that point, therefore, the Committee must be more cautious than ever.

7. In his view, the final three paragraphs, which appeared within square brackets, were essential to the text, and the Committee should retain them, perhaps with some alterations, particularly in paragraph 12.

8. Miss CHANET thanked the Working Group for having provided an excellent basis for discussion by means of a very comprehensive draft. She agreed with Mr. Sadi on the question of tolerance as dealt with in paragraph 7 which was too restrictive. The crux of the problem was that everyone had to strike a balance between his own freedom of thought and that of others, and the Committee should perhaps develop paragraph 7 by invoking other articles besides article 20 of the Covenant.

9. In paragraph 9, which dealt with restrictions the State might impose on the freedom to manifest religion, questions of public safety were duly mentioned, but the need to respect the fundamental rights and freedoms of others, as set forth in other articles of the Covenant, was insufficiently stressed. There was no mention, in particular, of practices contrary to the Covenant, such as mutilation for religious purposes, a matter which called for greater clarity.

10. Mr. LALLAH noted that, in the Working Group's draft, the right laid down in article 18 was placed in a very broad context which enabled it to be considered thoroughly. Although the difficulties faced by some States with regard to the freedom enunciated in that article were understandable, the Committee had to bring out its right meaning. It was quite open to States to formulate reservations, and the fact that they might fail to do so should not serve as an argument for putting a limitation on the right set forth in article 18. The Committee, in seeking to obtain the broadest possible acceptance of the general comment it was to publish, thus requiring a very cautious wording or a text which aimed to reflect a consensus discernible during consideration of States party reports, was liable to produce a text so cautious that it would become restrictive. The right set forth in article 18 must be understood in the same way as all other rights, bearing in mind the requirements of articles 2 and 26 of the Covenant. It could not be subjected to limitations other than those explicitly authorized by article 18 itself.

11. Mr. HERNDL congratulated the Working Group on the exceptionally high standard of its draft. The right proclaimed in article 18 was perhaps one of the most important of the Covenant and the Universal Declaration of Human Rights. It embraced two main aspects: the right to have a religion and change it, and the right to manifest one's religion. It was clear that the former was without limitation, whereas the latter might be subject to limitations under certain conditions which were clearly specified in the draft.

12. In general, the text was perfectly satisfactory. Having said that, he was inclined to recommend, not on grounds of substance but for the sake of economy, that the description of manifestations of religion given in paragraph 4 should be shortened.

13. Mr. MULLERSON said that, in his view, the draft general comment not only provided a good basis for discussion but was virtually ready for adoption as it stood. The question to be settled was whether the Committee ought to produce a comment which could take into account all the sensibilities and concerns of States or whether the text must be as complete and topical as possible, at the risk of displeasing some. Although the question was delicate, he himself was inclined to think that the general comment should not

seek to reflect all the positions voiced during consideration of periodic reports by States, some of which, unfortunately, failed to observe even the least controversial provisions of article 18. The comment should reflect the interpretation and concerns of the Committee, which, having always shown care and precision, should not worry about displeasing someone or other on that particular matter.

14. Mr. WENNERGREN said that, in the impressive analysis of article 18 submitted for the Committee's consideration, one aspect remained overlooked, as it had been in any discussion of that article: freedom of "thought". In the Universal Declaration of Human Rights a distinction was made between freedom "of thought, conscience and religion" (art. 18) and "freedom of opinion and expression", covered by article 19. In the Covenant, on the other hand, it was not expressly stated that everyone should have the right to freedom of opinion, article 19 (1) being worded: "Everyone shall have the right to hold opinions without interference". It had to be clearly stated that freedom of thought was a far-reaching concept which should embrace freedom of opinion, and that the Covenant was aimed not only at safeguarding the right of individuals to hold opinions without interference but also at safeguarding freedom of opinion absolutely. That idea had always been lacking in the general comments of the Committee, which had seemingly failed to attach due importance to the fact that freedom of thought was a specific right. It was time to give that question the full attention it deserved in a general comment on article 18.

15. Mr. PRADO VALLEJO said that in his view, too, the draft general comment offered a profound analysis of an extremely important topic. The issue was one of the most controversial, not intrinsically but in practice, since not only did legislative and administrative measures of all kinds come into play but so too did peoples' customs and attitudes. Therefore, great care must be taken about the way in which that right was interpreted. The basis of the freedom under consideration was tolerance, which involved true respect for the religion, thought and conscience of others. That right thus involved conflicting aspects, as exemplified in the three highly important paragraphs which appeared within square brackets in the draft text. A consensus on their substance might be obtained, but probably only after lengthy discussion.

16. He had thought of several further questions, which he was not sure had really been covered in the text. He was thinking, for example, of the question of private religious schools which, in Latin America, were reserved for the children of parents who professed the Roman Catholic religion and forbidden to all other children. Likewise, again in Latin America, the armed forces had Catholic chaplains and no other religion could be represented. Discussion on each paragraph would reveal whether those questions could be regarded as covered by the general comment.

17. Mrs. HIGGINS said that she, too, noted the high standard of the draft general comment. In the important discussion of principle which had developed about the attitude to adopt in view of the sensibility of States, she felt that, while States must indeed be borne in mind, the rights of individuals were just as essential. It was an established principle of international law relating to human rights that limitations must always be interpreted in a

restrictive way. A State which found difficulty with a treaty's provisions, including limitations interpreted in such a restrictive way, could and should express a reservation at the time of ratification. The various sensibilities relating to a matter should not be considered in the text of the general comment, save to the extent that they were compatible with the Committee's viewpoint.

18. She agreed with Mr. Sadi that more substance should be given to the concept of tolerance, which in any case should be stated in a positive light.

19. She also supported Miss Chanet with regard to protection of the rights of others. She wondered whether the question of persons who professed a religion and did not ask for special treatment but who practised rites which the Committee felt to be generally contrary to the Covenant - for example, certain forms of mutilation - was really covered in the text as it stood.

20. She asked the Chairman/Rapporteur of the Working Group, which had clearly given a great deal of thought to article 18, to explain why no distinction was made, in the draft general comment, between article 18 (1) and the article's other paragraphs. She noticed, in fact, that throughout the text there were overall references to "freedom of thought, conscience, religion or belief" whereas, in article 18 (1), the expression adopted was "freedom of thought, conscience and religion", "belief" being added only in the second part of the first sentence. In short, she would like to have an explanation of the distinction between "religion" and "belief".

21. Lastly, when the draft came to be considered paragraph by paragraph, she would require some explanations about paragraph 12 as a whole.

22. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under article 40) thanked the members of the Committee for the kind words they had addressed to him. The various ideas they had expressed should be incorporated in appropriate parts of the text. In particular, Miss Chanet's highly cogent comment about mutilation and similar practices should be reflected in paragraph 7, for example. In general, it might be desirable to emphasize at the outset that all the provisions of article 18 of the Covenant rested on the principle of tolerance. In that sense, the intention was to identify, in paragraph 4 of the draft, those areas in which forms of intolerance had been observed; that, indeed, was the reason for its length. It might be as well, however, to stress, as early as in paragraph 2, that article 18 as a whole was founded on the principle of tolerance.

23. With regard to paragraph 7, a distinction should be made between the limits inherent in the rights set forth in article 18 (to the effect that those rights could not be so interpreted as to impair other rights) and limitations of those rights authorized pursuant to the law in response to the concern to safeguard the interests of others. Perhaps it should be clearly stated, in paragraph 7, that the inherent limits to the rights set forth in article 18 were to be respected even if the members of the religious or philosophical group concerned accepted the content of the messages.

24. Mrs. Higgins had brought up a very interesting problem concerning belief. Article 18 (1) of the Covenant referred to "freedom to have or to

adopt a religion or a belief of his choice, and freedom ... to manifest his religion or belief". The concept of belief was very important but also difficult to define. Some felt that belief encompassed non-religious beliefs or religious beliefs not associated with an established religion. Having said that, he supported the idea of introducing the question of belief at the outset in the text, but care must be taken to employ suitable wording. With regard to freedom to manifest one's religion or belief, freedom of religion implied the right to have or to adopt a religion or belief of one's choice, and such freedom applied to thought, conscience and religion alike. As for the right of manifestation, it applied solely to religion or belief. It was for that reason that the term "belief" was interpreted very broadly in the draft general comment, in order to encompass all forms of thought and - to use terms which had obviously been avoided in drafting the Covenant - beliefs which were not expressed as being the affirmation of a truth. That, indeed, was how religion was defined, since it was based on a belief and not on a scientific premise.

25. Lastly, it was important to ensure that, in each paragraph, precise wording was employed to express a particular concept.

26. The CHAIRMAN warmly thanked Mr. Dimitrijevic for his vital contribution to the draft general comment and invited the members of the Committee to consider the text paragraph by paragraph.

Paragraph 1

27. Mr. MULLERSON said that, in his view, the text of the paragraph was on the whole satisfactory. He nevertheless felt that the term "far-reaching" in the English version was unsuitable. He strongly preferred the term used in the Russian version, which also had the same meaning as that of the French version and conveyed the idea of a "broad" concept. With regard to the paragraph's second sentence, it was not very easy to understand why there were separate references to "the freedom of thought and the freedom of conscience and belief", on the one hand, and "the freedom of religion" on the other. He wondered whether the Committee was making a distinction between those freedoms. The matter was not very clear, particularly since it was also stated in the text that all those freedoms were protected equally.

28. Mr. PRADO VALLEJO said he wished to make three comments. Firstly, it was perhaps not a very good idea to begin the paragraph with the words "The concept of freedom of thought ..."; it would be better to speak immediately of the freedoms themselves and not of the "concept" of freedom. Secondly, the idea of "communal commitment to belief" was not clear. Thirdly, it would be preferable to say, in the last sentence, "This provision cannot be derogated from even in time of public emergency".

29. Mrs. HIGGINS endorsed Mr. Prado Vallejo's last two comments. With regard to the question of communal commitment to belief, she proposed that the term "commitment" should be replaced by "manifestation". She fully supported Mr. Prado Vallejo's proposal concerning the last sentence.

30. She also wondered whether it might be preferable to take up, at the beginning of the paragraph, the terms used in article 18 (1), to enunciate the

various implications of the right to freedom of thought, conscience and religion. There would then be no need to refer to them subsequently.

31. Mr. WENNERGREN said he noted that, in the draft general comment, the concept of freedom of thought was closely associated with that of freedom of conscience, religion and belief. But freedom of thought was broader: it encompassed freedom of political and scientific thought, and so on. Freedom to pursue scientific curiosity, for example, had nothing to do with freedom of religion. Those aspects of freedom of thought were essential, yet they were not reflected in paragraph 1 of the draft. The fact was that freedom of thought was often associated with freedom of religion and belief, but it was not uniquely and necessarily so. In that light, it was important to mention the sphere of ideas and opinions in general, and to evoke, for example, the question of political opinions and scientific ideas. Likewise, in the second sentence, it could be said that the freedoms in question applied to all convictions and beliefs as well as to ideas and opinions of all sorts.

32. Mr. NDIAYE said that the expression "communal commitment to belief" seemed wrong to him, for commitment to a belief was personal. It would be more accurate to speak of commitment to a communal belief.

33. The second sentence posed a problem, since it might give the impression that, in the Committee's view, it was rather surprising that the freedom of thought and the freedom of conscience and belief should be protected equally with the freedom of religion. He felt, it essential to remove that apparent ambiguity and reformulate the sentence accordingly. Also in the second sentence, the freedom of belief was associated with the freedom of conscience, contrary to the provisions of article 18 of the Covenant, which established a sort of complementarity between freedom of belief and freedom of religion. In evoking those two freedoms together, article 18 clearly showed that the scope of freedom of religion encompassed all spheres and applied also to persons who had no religion. In the draft general comment, on the contrary, the freedom of belief appeared to be associated with the freedom of thought and of conscience. He would like to see a closer alignment with the Covenant's provisions.

34. Mr. SADI proposed that, in order to reflect Mr. Wennergren's suggestion about developing the concept of freedom of thought, the first sentence should say that the concept of freedom of thought, conscience, religion and belief emcompassed a whole range of personal and collective convictions in the political, economic, social, scientific and intellectual spheres. The meaning of freedom of thought encompassed all those aspects.

35. Mr. EL SHAFEI proposed that, for the sake of clarity, the second sentence should be amended so as to show that it was under the Covenant that the freedom of thought and the freedom of conscience and belief were protected equally with the freedom of religion - in other words, that was how the Covenant should be understood. The fact that, pursuant to article 4 (2) of the Covenant, article 18 could not be derogated from even in time of public emergency was not the sole yardstick by which to judge the fundamental nature of the freedoms in question. Therefore, it would be more accurate to say that the fundamental character of those freedoms was likewise reflected in that fact.

36. Miss CHANET said that Mr. Wennergren had raised, with regard to freedom of opinion, a problem which meant a discussion of substance that the Committee should conduct if it wished to avoid confusion between the provisions of article 18 and those of article 19 of the Covenant. Those provisions did in fact overlap at times, but they were none the less distinct. It was clear that, in order to exercise freedom of opinion, within the meaning of article 19, one must first exercise the freedom of thought set forth in article 18. Likewise, the freedom to manifest one's religion, proclaimed in article 18, was an integral part of the freedom of expression set forth in article 19. For the purpose of a general comment on article 18, however, the Committee should determine what separated those articles. Most important was the fact that, of the two, only article 18 was not subject to derogation pursuant to article 4 of the Covenant. Furthermore, there seemed no need to state that the concept of freedom of thought, conscience, religion and belief was far-reaching; it should suffice to say that it encompassed the spheres of personal conviction, and so forth.

37. With regard to the second sentence, she shared Mr. Ndiaye's view. The Committee, in saying that the freedom of thought and the freedom of conscience and belief were protected equally with the freedom of religion, was either stating a truism or seemingly implying that not all those freedoms should perhaps, after all, be protected equally. It would be better to delete that passage. She was also troubled by the use of the term "fundamental" in the last sentence and thought that another, more suitable, adjective should be used; she would give that matter further thought.

38. Mr. LALLAH said that he could accept paragraph 1 of the draft, but with some slight reservations. He supported Mr. Prado Vallejo's proposal simply to say "freedom" instead of "concept of freedom". As for the expression "communal commitment to belief", it was hard to see what the Working Group had in mind. He felt, like Mr. Ndiaye, that the right to freedom of religion was essentially a personal right. He would prefer to use the language of the Covenant, namely, the expression "individually or in community with others" (art. 18 (1)). The word "communal" could in fact be interpreted in various ways which would not necessarily conform to the meaning of the Covenant's provisions.

39. With regard to the second sentence, the Working Group had doubtless wished to express the fact that the freedom of thought and the freedom of conscience and belief must be given the same protection as the freedom of religion. But the intention was not well reflected in the drafting, which made it appear that the freedom of religion had a somewhat higher status than the other two freedoms; thus the comparison did not achieve the purpose that the Working Group had clearly intended. That being so, it would surely be wiser to delete that passage, since in any case the rest of the draft general comment showed clearly enough that all those freedoms were protected equally. Finally, he proposed that, in the paragraph's last sentence, the words "is reflected in" should be replaced by "is brought out by". Subject to that amendment, he felt that the sentence could remain as it stood.

40. Mrs. HIGGINS said that, in fact, the exercise of freedom of thought was not limited to the sphere of religion. She therefore proposed that the text should indicate that the concept of freedom of thought, conscience, religion

and belief encompassed freedom of thought "on all matters". She also thought that the expression "The Committee notes", used at the beginning of the second sentence, was rather weak and that it would be preferable to adopt wording to read, for example: "The Committee draws the attention of States parties to the fact that the freedom of thought ...".

41. Miss. CHANET said that she fully approved Mrs. Higgins' proposal concerning the first sentence of paragraph 1. With regard to the second sentence, she felt that the term "au même titre", used in the French version, implied some sort of hierarchy between the freedom of conscience and belief and the freedom of religion, which seemed to her in no way justified.

42. Mr. ANDO said that he, too, supported Mrs. Higgins' proposal. He also had doubts about the question of "communal commitment" to a belief since article 18 (1) of the Covenant set forth the freedom for everyone to manifest his religion or belief "either individually or in community with others", a concept which the Committee should not lose sight of.

43. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under article 40) said he was conscious of the fact that, in practice, the provisions of article 18 had been generally interpreted as safeguarding only the freedom of religion and the freedom of thought and belief associated with religion; he recognized that it was now important to restore the balance by showing clearly that the provisions of article 18 sought to safeguard, without any restriction, all the freedoms of the mind that man could exercise. It seemed, in that regard, that the wording proposed by Mrs. Higgins was entirely suitable. Likewise, as Mr. Ando had noted, it was important to stress that the exercise of the right to freedom of thought, conscience and religion had an aspect at once private and public, personal and communal; it might be preferable, in that regard, to reproduce the precise wording of the Covenant in the Committee's general comment.

44. Mr. MULLERSON said that, in general, terms such as "far-reaching" or "fundamental" seemed superfluous and should be avoided, since each of the rights set forth in the Covenant was necessarily fundamental and to use such terms scarcely added any useful details.

45. Mr. NDIAYE said he was not opposed to the use of the expression "The fundamental character of these freedoms"; even if all the rights enshrined in the Covenant were indeed important, the freedoms referred to in article 18 were especially fundamental in character.

46. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under article 40) thought that the Committee could perhaps stress the concept of tolerance by adopting a text which would signify that the right to freedom of thought, conscience, religion and belief was inspired by the basic principle of tolerance, thus encompassing all aspects of the freedoms set forth in article 18.

47. Mrs. HIGGINS said that she did not think it useful to go into the question of tolerance at the current stage; that could be the subject of a more thorough discussion later. In paragraph 1 of the general comment, the Committee should confine itself to indicating what the obligations contracted

by States parties should signify for them. She also suggested, in order to satisfy the majority of the Committee members, that it should be made clear that the concept of freedom of thought, conscience, religion and belief was far-reaching "and profound".

48. Mr. LALLAH said he agreed with Mrs. Higgins that the question of tolerance should not be addressed at the current stage, since it would be the subject of a substantive discussion later. Moreover, the rights set forth in article 18 rested on much broader foundations than mere tolerance, since they involved, among other requirements, respect and acceptance by others of the exercise of those rights.

49. The CHAIRMAN read out the English version of paragraph 1 of the draft general comment, which reflected the various amendments proposed orally by members of the Committee. He said it was understood that the French, Russian and Spanish versions would be duly aligned with the original version, with the involvement of members of the Committee, who had already been called upon, on previous occasions, to contribute to the drafting of the general comments in all the working languages.

50. If there was no objection, he would take it that the Committee adopted paragraph 1 of its draft general comment on article 18 of the Covenant in the following wording:

> "The right to freedom of thought, conscience and religion [which includes the freedom to hold a belief] in article 18 (1) of the Covenant is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to a religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief and that these freedoms extend to all convictions. The fundamental character of these freedoms is also reflected in the fact that this provision cannot be derogated from even in time of public emergency, as stated in article 4 (2) of the Covenant."

51. It was so decided.

52. Paragraph 1 of the draft general comment on article 18 of the Covenant was adopted.

Paragraph 2

53. Mr. SADI said he wondered whether the second sentence of paragraph 2, which said that "The terms belief and religion are to be broadly construed", was really necessary, the more so since there was a logical link between the paragraph's first and third sentences, the one explaining the other. Nor did he see the need to say, as in the fourth sentence, that the Committee "views with concern any tendency to impose restrictions"; it would suffice to recall that any restriction must conform to the stipulations of article 18.

54. Miss CHANET said that she, too, wondered whether there was any point in repeating, in the second sentence, that the terms belief and religion were to

be broadly construed, since the point had already been made in paragraph 1. Nor did she understand why the fourth sentence ("The Committee therefore views with concern ...") appeared in paragraph 2; it dealt with a specific case, whereas that paragraph related to article 18's overall application. It would seem better to place it in the paragraph dealing with restrictions.

55. Mr. NDIAYE said that the second sentence of paragraph 2 could be deleted.

56. Mr. LALLAH said that he himself found the text of paragraph 2 homogeneous and very comprehensive: it covered all kinds of religions and beliefs - theistic, non-theistic and atheistic, traditional or new. He agreed with Mr. Sadi about the beginning of the fourth sentence. It would suffice to state that no restriction could be imposed unless it was in conformity with the requirements of article 18.

57. Mr. MULLERSON said that he shared Mr. Lallah's interpretation of the paragraph. With regard to the fourth sentence, he noted that restrictions could apply only to manifestations of religion or belief, not to the religions or beliefs themselves; there could in fact be no limitation on thought. Moreover, in paragraph 3, a distinction was made between the freedom of thought, conscience, religion or belief, on the one hand, and, on the other, the freedom to manifest religion or belief. That being so, perhaps matters should be clarified by speaking of limitations imposed on "manifestations" of religions and beliefs.

58. The CHAIRMAN said that the last sentence could perhaps appear in paragraph 3.

59. Mr. HERNDL said that, like Mr. Lallah, he thought that the text of paragraph 2 was homogeneous and ought essentially to be retained as it stood. He had no objection to a clarification indicating that the terms "belief" and "religion" were to be broadly construed. Nor did he think that restrictions applied solely to manifestations of religion, since they could be aimed, for example, at religious minorities. As for the fourth sentence, it seemed to him entirely topical; he would be prepared, however, to accept its amendment by deleting the reference to religions "that are newly established" or to religious minorities "that may be the subject of hostility by a predominant religious community".

60. Miss CHANET supported the suggestions made by the Chairman and Mr. Müllerson. Article 18 (3) of the Covenant, in fact, permitted limitation only of the freedom to manifest one's religion, not the freedom of religion itself. But that was not made clear in the text of the draft comment, whose wording was ambiguous. In her view, the question of restrictions imposed on the freedom to manifest one's religion had no place in paragraph 2.

61. Mr. MULLERSON agreed with Miss Chanet. He wondered whether, instead of speaking of restrictions, there ought not to be a reference to discrimination, since discrimination could target a religion or a group of followers, and not manifestations. With regard to the fourth sentence, he thought it superfluous to mention the case of newly established religions.

62. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under article 40) said that the fourth sentence concerned the case of States or societies in which certain beliefs or religions were not regarded as such and, in other words, as being entitled to protection. That refusal was generally aimed at newly established religions or minorities which openly attracted public attention, such as the Baha'i community. The Working Group's intention had clearly been to state that all religions and all beliefs were protected. The word "discrimination" might also be suitable, or even a form of words, used by Mr. Lallah in the context of paragraph 1, to the effect that the Committee viewed with concern any tendency to refuse to recognize and respect any religion or belief. If the Committee so wished, the words "for any reason, including the fact that they are newly established or represent a minority subject to hostility by a predominant religious community" could be added.

63. Mr. LALLAH said he was ready to support that wording.

64. Mr. HERNDL said that he himself would not like to see the paragraph's second sentence deleted. As for the last sentence, the idea of speaking not of restrictions but of discrimination seemed acceptable to him, as did, broadly speaking, the wording proposed by Mr. Dimitrijevic.

65. Mr. WENNERGREN recalled the existence, in that context, of an element of protection, not to be overlooked, that was set forth in article 2 of the Covenant. The need to respect and safeguard the rights of adherents of religions could be evoked in the proposed wording.

66. Mrs. HIGGINS said she was prepared to accept the idea of speaking of discrimination, rather than of restrictions, with regard to religions. However, care must be taken to avoid any wording which would emphasize respect for religions rather than respect for the freedom of religion and, in general, for the rights set forth in article 18 (1). Before speaking of respect for and recognition of religions themselves, the consequences of the wording used must be carefully weighed at the outset. In particular, she had in mind a phenomenon that was common in her country, whereby certain groups claiming to be religions behaved in ways regarded as antisocial in some respects, in that they took children away from their parents, prevented parents from seeing their children and subjected the latter to intense indoctrination. The approach adopted in her country had been to allow those groups complete freedom of worship and to recognize their rights in general, but to grant them no privilege expressly associated with recognition as a religion. Being recognized as a religion conferred a charitable status, which meant a further boost. She would therefore have very strong reservations about any wording which would imply the obligation for States to recognize religions as such.

67. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under article 40) said that, following Mrs. Higgins' comments, he would refrain from mentioning recognition of religions, and, in response to Mr. Wennergren's, from mentioning protection of their rights. In his view, the best solution was to speak of non-discrimination and to say that the Committee viewed with concern any tendency to discriminate against religions or beliefs for any reason, including the fact that they were newly established or represented religious minorities that might be the subject of hostility by a predominant

religious community. He thought it important that States should not be able to invoke the fact that a group was different or failed to follow tradition in order to assert that it did not represent a religious belief and could not claim any protection or any right pursuant to the Covenant, while the same States accepted religions which enjoyed a certain prestige in their eyes. The intention of the text was to encompass all religions and beliefs in all their diversity and to ensure that certain religious groups which regarded themselves as religions and had definite religious practices were protected against any move, on the part of the authorities or society, to prevent the exercise of their rights because they were not regarded as a religion.

68. The CHAIRMAN read out the last sentence of paragraph 2 as amended by Mr. Dimitrijevic: "The Committee therefore views with concern any tendency to discriminate against any religions or beliefs for any reason, including the fact that they are newly established or represent religious minorities that may be the subject of hostility by a predominant religious community".

69. He asked the members of the Committee whether they wished to retain the second sentence of paragraph 2.

70. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under article 40) said he saw no reason to delete that sentence, which had the merit of being brief.

71. Mr. WENNERGREN said he failed to understand why the text specifically mentioned the case of religious minorities that might be the subject of hostility by a dominant religion, when all religious minorities ought to be protected against discrimination. In his view, either it should be explained why they warranted a particular mention or the text should be reworded.

72. Mrs. HIGGINS said that she found the text altogether satisfactory: the Committee was speaking out against discrimination with regard to all religions, including those newly established and those that might be the subject of hostility by the majority.

73. The CHAIRMAN invited the Committee to adopt the text of paragraph 2 as amended.

74. Paragraph 2, as amended, was adopted.

The meeting rose at 1 p.m.